

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
BRIEF**



# 74-2087

In The  
**United States Court of Appeals**  
For the Second Circuit

**WILLIAM J. HEAD**

*Appellant,*

vs.

**BROTHERHOOD OF RAILWAY, AIRLINE AND  
STEAMSHIP CLERKS, FREIGHT HANDLERS,  
EXPRESS AND STATION EMPLOYEES (BRAC)**

**R. J. DEVLIN, Vice-President Express Division BRAC**

**C. L. DENNIS, International President BRAC**

**G. E. STEPHENSON, Secretary-Treasurer Express Division  
BRAC**

*Appellees.*

**Appeal from the United States District Court  
For the Western District of New York State**

**BRIEF FOR APPELLANT**

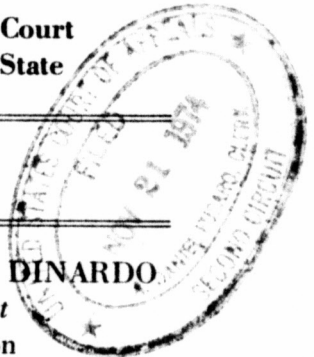
**COLLINS, COLLINS & DINARDO**

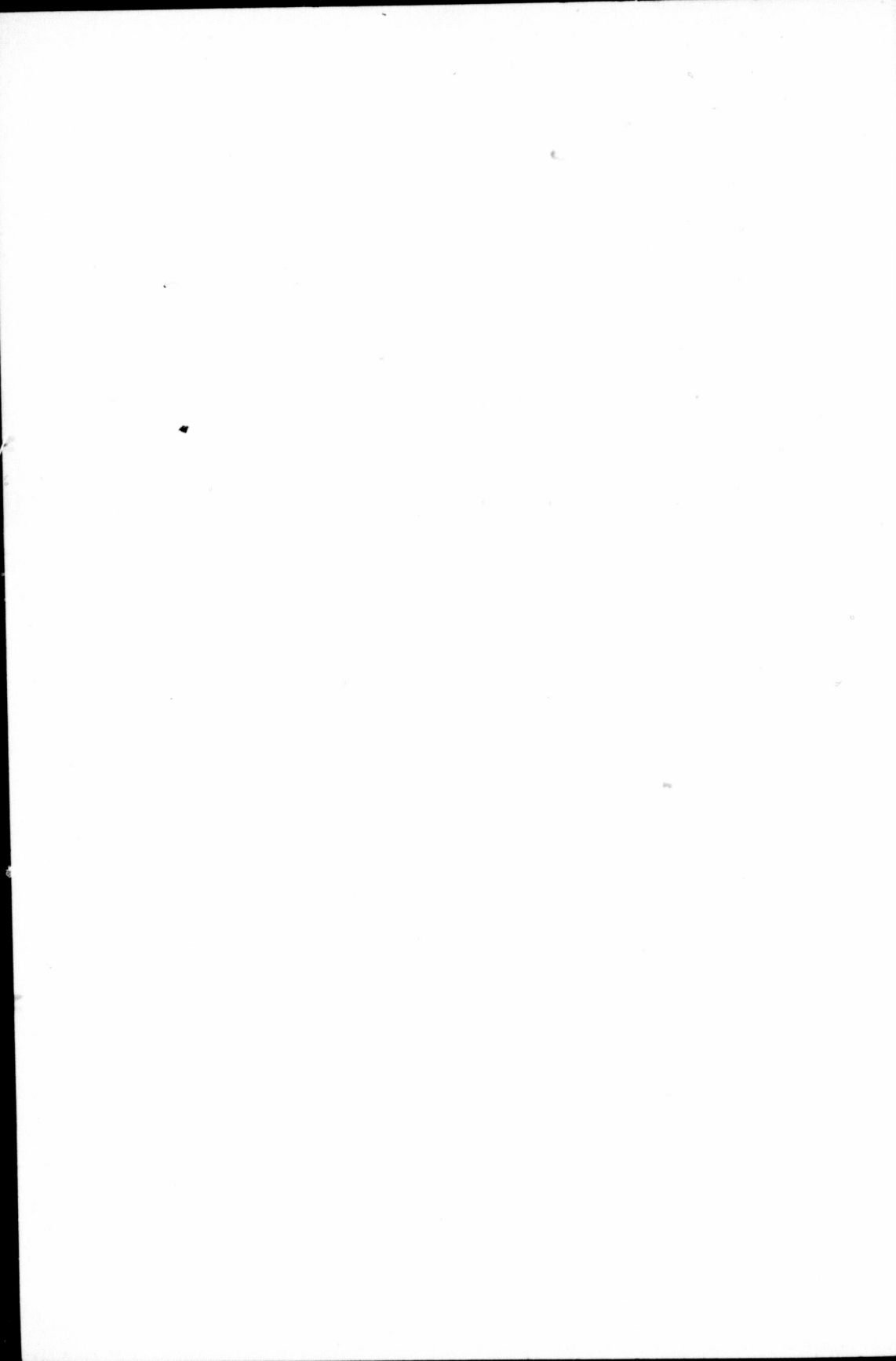
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## APPLICABLE STATUTES

Section 501 (a) (b) (c) of the Labor-Management Reporting and Disclosure Act of 1959, As Amended, Title V — Safeguards for Labor Organizations, Fiduciary Responsibility of Officers of Labor Organizations provides that:

Section 501 (a) The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b) When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district

court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown which application may be made *ex parte*. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

**APPLICABLE B.R.A.C.  
CONSTITUTIONAL PROVISIONS, STATUTES,  
PROTECTIVE LAWS AND RESOLUTIONS**

*The Constitution of the Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express and Station Employers provides in pertinent parts:*

*Article 5, Section 1(a).* There shall be one form of Constitution of the Grand Lodge, Statutes for the Government of Lodges, Protective Laws and T.C. Division Bylaws, which shall be the law by which each member and all subordinate units shall be governed and a copy thereof will be furnished each member.

*Article 5, Section 2(a).* It is the obligation and responsibility of every officer, subordinate unit and member to comply with the Constitution, Statutes for the Government of Lodges, Protective Laws and T.C. Division Bylaws of this Brotherhood . . . ."

*Article 6, Section 1. Representation to Grand Lodge Convention.* Lodges are, for the purpose of electing delegates to the Grand Lodge Convention, classified into two groups; namely, lodges of one hundred and fifty (150) or more members and lodges of less than one hundred and fifty (150) members. The size of the lodge is determined by taking the number of members in good standing as of September 30, last preceding the Grand Lodge Convention.

*Article 9 — Duties of Grand Lodge. Section 1.* It shall establish lodges and subordinate units throughout the states, . . . ."

*Article 13 — International President's Duties and Prerogatives. Section 9(a)* He is empowered to suspend the charters of lodges or subordinate units . . . The sole basis for suspension of any lodge or subordinate unit shall be submitted to the lodge or subordinate unit in writing, expressly stating any

and all of the Articles and Sections of the Constitution and law violated.

*Article 34 (p. 57) Amendments to Constitution, Statutes for the Government of Lodges and Protective Laws, or T.C. Division Bylaws.*

*Section (1)* Amendments to this Constitution, Statutes for the Government of Lodges and Protective Laws, or T.C. Division Bylaws can only be made by the delegates and International officers in Conventions assembled or by a referendum as provided for in Article 32 of this Constitution . . .

*Section (2)* Except by referendum as provided for in Article 32 of this Constitution, a two-thirds vote of the delegates and officers of the Grand Lodge present at a Convention and voting shall be required to adopt any amendment to the Constitution.

Statutes for the Government Lodges

*Preamble (p. 59)* For the purpose of effecting uniformity in the administration of privileges and benefits to its members, the Brotherhood . . . ordains the following Statutes for the government of subordinate Lodges.

*Article 4 (p. 62) Officers and Committees* Section 1(a) The officers of the lodge shall consist of a President, Vice-President, Recording Secretary, Financial Secretary, Treasurer, Legislative Representative, etc."

## PROTECTIVE LAWS OF THE B.R.A.C.

### Article I. *Protective Committee*

*Section 2.* Lodges shall establish in the manner set forth in Article 4, Section 3 of the Statutes of the Government of Lodges, a representative Protective Committee consisting of a chairman and two (2) or more members . . .

*Section II (a)* Grievances must be presented in writing by the aggrieved employee, giving all known facts to the Chairman of the Local Protective Committee.

Resolution #201 passed at the Quadrennial Convention of B.R.A.C. held in 1971 authorizing a structure committee provided in part:

"Therefore, be it further resolved, that such Committee on Structure be authorized by Convention Action to recommend to the Executive Council, on a temporary experimental basis, structural changes in subordinate units of the B.R.A.C., which can only be effected if the involved units accept these changes .."

## CASES CITED

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In The  
**United States Court of Appeals**  
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**WILLIAM J. HEAD**

*Appellant,*

vs.

**BROTHERHOOD OF RAILWAY, AIRLINE AND  
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**R. J. DEVLIN, Vice-President Express Division BRAC**

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**Appeal from the United States District Court  
For the Western District of New York State**

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**BRIEF FOR APPELLANT**

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**Preliminary Statement**

This is an appeal from an order entered July 25, 1974 by Federal District Court Judge John T. Curtin, dismissing plaintiff-appellant's complaint which alleged violations of Sections 501(a) and (b) 29USC by the defendants-appellee's union Brotherhood of Railway, Airline and Steamship Clerks,

Freight Handlers, Express and Station Employees — hereinafter referred to as B.R.A.C. — and the defendants-appellee's union officers R. J. Devlin, Vice-President Express Division, D. L. Dennis, International President, and G. E. Stephenson, Secretary-Treasurer Express Division.

The action was originally brought by the appellant, William J. Head, a General Chairman in the appellee BRAC union. On June 28, 1974 appellant filed a complaint in the Federal District Court for the Western District of New York alleging that the appellee union had authorized an illegal confiscation of local union funds resulting in a subsequent restructuring and abolishment of all locals within the union. The appellant also alleged that this action was in violation of the Union Constitution and also concerned financial dealings and fiduciary responsibilities of the union and its officers. The plaintiff further alleged that this action violated Section 501 (a) and (b) of 29USC, more commonly referred to as the Landrum Griffin Act. The jurisdiction of the district court was invoked under 501 (c) of 29USC and sections 1331 and 1337 of 28USC. On June 28, 1974 appellant also sought a temporary restraining order, restraining the appellee from making any transfer of local union funds to the newly formed international treasury. A hearing was held on June 28, 1974 before Judge Curtin; both appellant and appellee were present and represented by their respective counsel. Judge Curtin ruled that he could not see the connection between the appellants' lawsuit and Section 501 of the Landrum Griffin Act. The Judge also ruled that the appellant's papers failed to establish irreparable injury which would allow the court to issue a temporary restraining order. The Judge therefore denied appellants' request for a temporary restraining order. The matter was set down for a hearing on July 12, 1974, to consider appellants' further request for a preliminary injunction, restraining the alleged confiscation of funds.

A hearing was held on July 12, 1974 at which time appellant's and appellee's counsel were heard. Appellee moved the court to dismiss appellant's complaint, for failure to state a claim, or in the alternative to grant summary judgment in favor of the appellee. Appellant moved the court to grant a preliminary injunction and submitted a memorandum in opposition to appellee's motion. The Court heard oral argument on the matter and reserved decision. On July 25, 1974, Judge Curtin granted appellee's motion to dismiss the complaint.

On August 1, 1974, appellant filed a notice of Appeal. A Civil Appeal Pre-Argument Statement and Transcript Information Statement was filed on August 12, 1974. Appellant also filed a motion for preference pursuant to Rule 27(e); a motion for stay of execution of the District Court Order, and a motion for an injunction prohibiting the appellee from committing the acts complained of by appellant, pending determination of the appeal.

On September 10, 1974 at the U.S. Court of Appeals for the Second Circuit, oral arguments were heard on appellants' motions and said motions were denied.

The case is now before this court on appeal pursuant to the civil appeal scheduling order Docket No. 74-2087 dated August 13, 1974. On or about October 25, 1974, the respective counsel for the appellant and appellee agreed and subsequently caused to be filed with the clerk of the Court of Appeals, a stipulation extending appellant's time to file a brief and appellee time to file a reply brief in this case. The case is now before the court for a decision on the appeal.

### Statement of Facts

This case involves an action by a General Chairman of the B.R.A.C., Mr. William Head, to enjoin the International union from restructuring and transferring funds from 120 local lodge treasuries of the B.R.A.C. to a newly designated secretary-treasurer of the newly formed Express Division of the B.R.A.C., whose headquarters will be located in New York City. This newly designated secretary-treasurer of the Express Division, B.R.A.C. will serve as the exclusive agent for the collection of all dues, initiation and reinstatement fees, presently paid to the Union. These monies were formerly paid to the 120 local lodges and under local lodge control as provided for under the B.R.A.C. Constitution.

Under the old setup, a specified amount of money was forwarded by the local treasurer to pay the international assessment. The remainder of the money, except for a general committee assessment, which was voted on by the local members, remained in the local treasury to meet the needs of the local. These disbursements for officer salaries, grievance fund, etc. were voted on and approved by the local members and provided for the operation of the 120 local lodges.

The B.R.A.C., Express Division however, has been faced with a dwindling membership over the past two decades. A resolution #201 was passed at the 1971 B.R.A.C. Convention to study the possibility of restructuring the union. The findings of the committee were to be reported to the 1975 Convention. Suggested changes could be implemented on a provisional basis if "the involved units" accepted the changes. The resolution further stated that any changes to be accepted had to be within the framework of the Union Constitution.

A study committee was formed and began the task of studying the present union structure and making suggestions for improvements.

In early May, 1974, the appellant herein, WILLIAM J. HEAD, heard a rumor of a proposed restructuring of the Express Division of B.R.A.C. to be put into effect July 1, 1974. On May 28, 1974, appellant was summoned to Rosemont, Illinois, to discuss the implementation of a restructuring plan. Appellant, being a General Chairman of the B.R.A.C., participated in the discussion concerning restructuring. Although the subordinate units and affected locals were not consulted, a vote was taken and the General Chairman's Association voted 11 to 3 to approve the restructuring plan.

On June 5, 1974, the Structure Committee met to discuss implementation of the restructuring plan. The plan was approved by a 13 to 3 vote, to become effective July 1, 1974. Under the plan, the funds from all 120 local lodges of the B.R.A.C. Express Division, would be consolidated into one (1) treasury fund, to be located in New York City. Local lodge treasuries would be eliminated and the functions of the local lodges assumed by area representatives. Financial benefits, in terms of increased salaries and appointed positions, were given to members of the Structure Committee and the General Chairman's Association, who were to serve now as area representatives in place of the local lodges.

Appellant herein opposed the plan. He pointed out that it was in violation of the union constitution and by-laws, in violation of Resolution #201 and resulted in substantial salary increases to numerous union officials. Appellant also pointed out that these salary increases and the other effects of restructuring were not voted upon or approved by the affected units, nor were they approved by a 2/3 vote of the Convention delegates of the union, as required by the Union Constitution when constitutional rules and by-laws are changed.

The restructuring and transferring of local union funds has resulted in the elimination of the locals as functioning entities. The absence of local funds has also resulted in the abolishment

of local officers, the abolishment of the local voting rights, the abolishment of the local grievance fund, and in effect, the abolishment of all local representation as it formerly existed.

The appellant, supported by over a majority of the concerned locals made vigorous protests to the International Union to reverse its decision on transferring of funds and establishment of an area representative system. Appellant was advised by C. L. Dennis, President of the Union, that this process could not be reversed and that it would be implemented on July 1, 1974. Appellant then commenced this action.

### POINT I

**The District Court erred in its interpretation of Section 501, 29U.S.C.**

On Page 24 of the record of the motion for a preliminary injunction the District Court, commenting on Section 501, stated at lines 15 to 23:

*The Court:* That is my reading of 501, anything to do with embezzlement, theft of funds, use of union office through various plans or schemes to deal with yourself in two positions; one, a union officer, two, maybe buying or selling or doing something else in the business line with the union.

The District Court in adopting this view indicated at Page 3 of Judge Curtin's decision and order of July 25, 1974, dismissing appellant's complaint that there was "no proof in the record of any present fiscal mismanagement." The Court further indicated that it would not depart from the Second Circuit's "restrictive view" of Section 501, which holds that Section 501 "relates solely to questions of financial dealings . . . to matters of money and property." *Guarnaccia v. Kenin*, 234F Supp. 429, 442 (SDNY) (1964).

To go into a long discussion of the legislative history of Section 501 is not necessary. The Second Circuit itself has

recognized that Section 501 deals with financial matters affecting money and property. See *Gurton v. Arons*, 339 F 2d 371 (2 Cir. 1964), *Coleman v. Brotherhood of Railway & Steamship Clerks, et al* 340 F 2d 206 (2 Cir. 1965). In the above cited cases the Second Circuit was reluctant to use Section 501 to meddle into internal affairs of unions where the issue sought to be litigated was related to a voting registration resolution and the creation of union chief executive position and not the issue of appropriate and legitimate handling of union finances and property in accordance with the union constitution. In the case at bar, appellant sought to have the court determine initially whether or not local union funds were illegally transferred in violation of the union constitution and by-laws. A secondary result of the transfer of local union funds, without prior approval by the locals involved was a dissolution of the locals and a disenfranchising of the local union members. It is submitted that both the initial action and the final result violate Section 501 in that both are intricately related to and affect the financial status of the local union and the local union members. The District Court refused to recognize this issue because of the alleged failure of the appellant to affirmatively prove financial mismanagement or embezzlement. In so doing, the District Court applied an even more restrictive interpretation to Section 501 than the Second Circuit follows.

Section 501 (a) of 29USC reads in part:

"... It is therefore the duty of each such person, taking into account the special problems and functions of a labor organization to hold its money and property solely for the benefit of the organization and its members and to manage, invest and expend the same *in accordance with its constitution and by-laws and any resolutions of the governing bodies adopted thereunder* . . . (emphasis added)

It is clear from the statute itself that Congress did not intend to limit Section 501 to cases of embezzlement or

mismanagement alone. The wording of the statute "... in accordance with its constitution and by-law ..." is clear and unambiguous; Congress intended union funds to be handled in an orderly and defined manner.

In *Johnson v. Nelson*, 325 Fd 2d 646, the District Court and the Eighth Circuit, in an exhausting and thorough discussion of the legislative history of Section 501 recognized that 501 imposes fiduciary responsibility in its broadest application and is not confined in its scope to union officials only in their handling of money and property affairs. The McClellan Committee uncovered a myriad of union abuses. The Landrum Griffin Act was passed in an attempt to control these abuses. Congress intended that the fiduciary principle of honesty, integrity, and good faith dealing be extended into Federal Labor Legislation regulating union activity and union officer conduct. The District Court abused its power in not following the Congressional Mandate.

In *Sabolsky v. Budzanoski* 457 F 2d 1245, (3rd Cir. 1972) and *Pignotti v. Local #3 Sheet Metal Workers Int'l. Ass'n*, 477 F 2d 825 (8th Cir. 1973) the courts again enforced the congressional intent behind Section 501, and read a broad fiduciary duty into the activities of union agents and representative-. It is submitted that the abolishment of local union treasuries through an executive directed transfer of local union funds to one international treasury and the resulting financial and political dissolution of the local union as an entity, is exactly that which Congress attempted to eliminate in passage of the Landrum Griffin Act. To hold otherwise, would render the Act a nullity and effectively deny the local union member the due process rights and protection, Congress intended that he or she have.



## POINT II

The financial restructuring of the Union instituted by appellee has resulted in a confiscation of all local funds, a resulting disenfranchising of local union members and an establishment of a union ruling hierarchy which has appointed itself and has determined its own salaries, without approval or vote by the concerned locals or the following of democratic procedures as required by the Landrum Griffin Act, 29 USC.

The appellees have ordered the financial restructuring of the union, which has also resulted in a restructuring of the political and governing framework of the union. The new structure which they have created consists of an International Vice-President and President, Express Division, a Secretary-Treasurer, Express Division, Six Regional Vice Presidents, ten Area Representatives, Three Division Board of Trustees and Three Division Appeals Committee. These men were appointed by Executive decree; their positions were not voted on by local union members or delegates chosen by the locals. The ten Area Representatives replace approximately 120 local lodges. The International Vice President - Express has been appointed to serve until the May 1974 B.R.A.C. Convention at a salary of \$37,000, a Secretary-Treasurer, Express Division at a salary of \$30,000, and six Vice Presidents, at salaries of \$28,000, have also been appointed to serve until the May 1975 Convention. A Grand Lodge Staff with total salaries of \$72,000 and a Division Staff, with total salaries of \$144,000, have also been appointed to serve until some time in 1976.

By executive decree salary increases for the affected union officers totaling approximately \$88,253.00 per year have been implemented. These salary increments are in violation of the Union Constitution, Bylaws and Protective Statutes of the B.R.A.C., in that they were not done in accordance with the articles of the constitution and were not approved by a majority

vote of the union membership or delegates assembled in convention.

Judge Curtin at page 3 and 4 of his decision says, "Even if the national office acted beyond its authority in effecting the transfers, this is something which the General Convention could always rectify in 1975." The "even if" suggestion is precisely what Section 501 (a) (b) and (c) of 29 USC and the Union Constitution, Bylaws and Protective Statutes attempted to eliminate. Dues, money and union property must be managed in accordance with the Union Constitution and Bylaws. The democratic right of union members to elect union officers and establish their salaries cannot be suspended between conventions. If the financial and political restructuring of the union is essential, then a special convention can be convened under Article 7, Section 2 (a), p. 13, of the Union Constitution and Bylaws to consider such. If, however, the Union can function under the present system, as it was doing until July 1, 1974, then pursuant to the Union Constitution and Bylaws, a restructuring can be effectuated at the May, 1975 Convention. To suggest as the District Court has suggested, that union officers be allowed to receive higher salaries pursuant to the restructuring plan, salaries which in all likelihood will be spent and gone by the time of the 1975 Convention, and in most cases the money not recoverable, is to vitiate the legislative mandate of Section 501 (a) and (b) 29 USC and to substitute the court's judgment for that of Congress.

Judge Curtin at Page 4 of his opinion cited the recently decided 2nd Circuit case of *Fritsch v. District Council No. 9 et al* 493F 2d 1061, to support the position that the "present union procedures do not appear to be unreasonable and intermeddling by the courts would seem inappropriate." However, in that case, the Second Circuit recognized at 492 F2d 1062, that the locals involved voted to approve bylaw changes which changes were ruled inconsistent with the Union Constitution by the In-

ternational's Executive Board. That same year a convention motion to change the bylaws was defeated and a latter referendum dealing with proposed bylaw changes was also defeated in a District-wide referendum. Two points about the case are worth noting. First, the case dealt with questioned voting and representation rights, not with transfer of local union funds resulting in a financial and political restructuring of the union. The Second Circuit rightly deferred to and supported the Union Constitution and Bylaws for the internal resolution of this matter. The appellant, Mr. Head, is asking the court to direct the appellee to abide by the Union Constitution, Bylaws and Governing Statutes, which under Section 501 (a) and (b) must be abided by when dealing with the union funds and property, and has been so recognized by the Second Circuit in its opinions. *Gurton v. Arons* 339 F2d 371 (2nd Cir. 1964). Secondly, the appellants in the Fritsch case were allowed to vote on the suggested change. The case at bar presents a case in which a majority of the members of the union did not vote on the financial and political restructuring, which was completed by Executive decree. The other cases cited by Judge Curtin support appellant's position that the court has authority to act in the case at bar because the matters deal with "questions of financial dealings . . . to matters of money and property." *Guarnaccia v. Kenin* 234 F Sup. 429 (S.D.N.Y. 1964)

As the appellant, William Head, has pointed out in his affidavit to the Court, and in his appeal to the Grand Lodge opposing the restructuring of the union, the democratic procedures and requirements enumerated in the Union Constitution and given legal effect through Congressional legislation are not met by a unilateral, clandestine executive decision to confiscate and consolidate local union funds. The appellee's action will result in effectively destroying the local union and thereby eliminating the local union members' voice and control over his local union dues and monies. His power to elect and recall local officers and effectuate local lodge policies will also be

vitiated. The ramifications of the appellee's restructuring plan are staggering. The end result as the appellees suggest may be necessary to preserve the union; however, it is the means by which this end is achieved which justly worried the Congress in passing Section 501 and which is justly before the Court for its scrutiny.

To preserve the union as an institution and to perpetuate the ruling hierarchy through elimination of democratic processes and the right of union members to vote on financial and political matters, is contradictory to the American system of justice and fairness and bespeaks the type of action recently condemned by the Courts, the Congress and the American public in the recent Tony Boyle - United Mine Workers fiasco. If the unions themselves cannot assure the local union member recognition and protection of his basic rights, then the courts must enforce the mandate of the Landrum Griffin Act. *Simancik v. United Mine Workers* 466 F2d 144, *Purcell v. Keane* 277 F Supp. 252, *Richardson v. Tyler* 309 F. Supp 1020. As Eugene Debs once said, it is not the corporations that the union men should fear, but the "aristocracy of Labor" in its attempt to perpetuate its reign and control of the union. It is the fear of this aristocracy and its aristocratic power which the Landrum Griffin Act and the Congress has sought to control through the enactment of the Act and the conferral of jurisdiction on the courts to insure its enforcement.

### CONCLUSION

In conclusion, the Court must recognize the attempted restructuring of the B.R.A.C. for exactly what it is, an attempt to restructure the financial framework of the union, under the guise of a temporary authorization from a resolution 201 and under temporary authority from an appointed structural committee. The precise question the appellant is raising is whether or not the restructuring, and new financial arrange-

ments were done legally in conformance with the governing laws and rules of the union constitution and the Landrum Griffin Act. The appellee would have the court approach the restructuring with a "Machiavellian eye" and concur with the appellees' position that the "end justifies the means." This type of approach has been thoroughly discredited by the recent United Mine Workers and Watergate scandals. The appellees recognized that "since this proposal (the restructuring) does involve suggested constitutional changes it was submitted to, and approved by, the Structure Committee for temporary operating authority and then submitted to, and approved by the Executive Council." The problem, however, is that the Structure Committee and the Executive Council do not have the authority to change the union constitution, for Article #2, Section #1, Page #3, of the Constitution reads, "There is no power vested in any officer, committee or body of members, except in convention assembled to repeal, alter, or change its law and decisions, except by referendum vote as hereinafter provided." Executive decrees either in Union government or the Federal Government attempting to change the Constitution are clearly an abuse of power. The Grand Lodge and the Executive have the authority to enforce the Constitution but only the members who make up and live under the laws of the Constitution have the authority to change it. Precisely, because the change being sought will be unpopular with the members of the union and precisely because a fear exists on the part of the restructuring committee that the change will not be effected at a convention of the members, or that a change will be achieved only after long and arduous debate, and possibly numerous compromising, and particularly because a quick concerted effort to change the Constitution under the guise of executive authority, is the best way to achieve the desired end with a minimum amount of opposition - the appellees have acted thusly. It is submitted, however, that the appellees in so acting have violated the union constitution and bylaws with regards to

the handling of union funds and have threatened the very make up and functioning of the local union as an entity. In so doing the appellees have also violated Section 501 (a) and (b) of Landrum Griffin, which was passed by Congress to insure that democratic processes and orderly procedure and not dictatorial processes and ad hoc decisions govern the operation of American unions, and the spending of union finances.

It is respectfully submitted therefore for the foregoing reasons that the decision of the District Court be reversed and the relief prayed for by appellant granted.

Respectfully submitted,

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## AFFIDAVIT OF SERVICE

November 20, 1974

RE: William J. Head vs Brotherhood of Railway, Airline and Steamship  
Clerks, Freight Handlers, Express and Station Employees (BRAC),

R.J. Devlin, C.L. Dennis, G.E. Stephenson

STATE OF NEW YORK )

COUNTY OF MONROE ) ss.:

CITY OF ROCHESTER )

John S. May , being duly sworn, deposes and says:

That he is associated with The Daily Record Corp. of Rochester,  
New York, and is over twenty-one years of age.

That at the request of Collins, Collins & Dinardo

Attorney(s) for Appellant

(s)he personally served three (3) copies of the printed [Record] [Brief]  
[Appendix] of the above-entitled case addressed to:

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New York, New York 10019

William J. Donlon, Esq.  
6300 River Rd.  
Rosemont, Ill. 60018

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Rochester, New York.

Sworn to before me this 20th  
day of November , 19 74.

*Ellen A. Defendis*

Notary Public

~~Commissioner of Deeds~~

ELLEN A. DEFENDIS, Notary Public  
State of New York, County of Monroe  
Commission Expires March 30, 1975

*John S. May*